

SENATE BILL No. 313

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-41-6; IC 16-41-15.

Synopsis: Mandatory testing of pregnant women. Requires that each pregnant woman be tested for syphilis, the antibody or antigen to the human immunodeficiency virus (HIV), and hepatitis B during pregnancy. Requires a physician who diagnoses a woman's pregnancy to take a sample of blood at the time of diagnosis and submit each sample to an approved laboratory for standard serological tests for syphilis, HIV, and hepatitis B. Requires a person other than a licensed physician who attends a pregnant woman, but who is not permitted by law to take blood specimens, to cause a sample of the pregnant woman's blood to be taken by a licensed physician, who must then submit the sample to an approved laboratory to test for syphilis, HIV,
(Continued next page)

Effective: July 1, 1999.

Miller

January 7, 1999, read first time and referred to Committee on Health and Provider Services.



C
o
p
y

and hepatitis B. Requires that a blood sample for syphilis, HIV, and hepatitis B tests be taken from a woman at the time of delivery if there is no written evidence that the woman was tested for those diseases during her pregnancy. Requires that information pertaining to the woman's testing status be included on each birth certificate or stillbirth certificate. Requires that a pregnant woman be told of all available treatment options if the pregnant woman has a positive test for syphilis, HIV, or hepatitis B. Requires the individual who orders a test for syphilis, HIV, and hepatitis B to tell the pregnant woman that the purpose of the test is to protect the health of her unborn child. Requires that a newborn infant be tested for HIV if the newborn infant's mother has not been tested for HIV. Requires the state department of health to develop and distribute written materials explaining treatment options for individuals who have a positive test for syphilis, HIV, or hepatitis B. Provides that all records and reports of testing are confidential. Repeals laws pertaining to voluntary HIV testing for pregnant women.

C
o
p
y



Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 313

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-23 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. "Approved
3 laboratory", for purposes of ~~IC 16-41-15~~; **IC 16-41-6**, has the meaning
4 set forth in ~~IC 16-41-15-1~~. **IC 16-41-6-0.1**.

5 SECTION 2. IC 16-18-2-338 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 338. "Standard
7 serological ~~test~~ **tests** for syphilis, **HIV, and hepatitis B**", for purposes
8 of ~~IC 16-41-15~~; **IC 16-41-6**, has the meaning set forth in
9 ~~IC 16-41-15-2~~. **IC 16-41-6-0.5**.

10 SECTION 3. IC 16-41-6-0.1 IS ADDED TO THE INDIANA CODE
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
12 1, 1999]: **Sec. 0.1. As used in this chapter, "approved laboratory"**
13 **means a laboratory approved by the state department for making**
14 **serological tests.**

15 SECTION 4. IC 16-41-6-0.5 IS ADDED TO THE INDIANA CODE



AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 0.5. As used in this chapter, "standard serological tests for syphilis, HIV, and hepatitis B" means tests recognized as standard serological tests for:**

- (1) syphilis;**
 - (2) the antibody or antigen to the human immunodeficiency virus (HIV); and**
 - (3) the hepatitis B surface antigen and core antibody;**
- by the state department.**

SECTION 5. IC 16-41-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Except as provided in subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to the human immunodeficiency virus (HIV) without the consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

- (1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.
- (2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.
- (3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).
- (4) The test is ordered under section 4, **5, 6, or 7** of this chapter.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 6. IC 16-41-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Subject to subsection ~~(e)~~, **(f)**, if:

- (1) the mother of a newborn infant has not had a test performed under ~~IC 16-41-6-2.5~~; **section 5, 6, or 7 of this chapter; and**
- (2) the mother of a newborn infant has refused a test for the newborn infant to detect ~~the human immunodeficiency virus~~ HIV or the antibody or antigen to HIV; ~~and~~
- ~~(3) a physician believes that testing the newborn infant is~~



1 ~~medically necessary;~~
 2 the physician ~~may~~ **shall** order a confidential test for the newborn infant
 3 in order to detect ~~the human immunodeficiency virus~~ HIV or the
 4 antibody or antigen to HIV. The test must be ordered at the earliest
 5 feasible time not exceeding forty-eight (48) hours after the birth of the
 6 infant.

7 (b) If the physician orders a test under subsection (a), the physician
 8 must:

9 (1) notify the mother of the newborn infant of the test; and
 10 (2) provide ~~human immunodeficiency virus~~ HIV information and
 11 counseling to the mother. The information and counseling must
 12 include the following:

13 (A) The purpose of the test.

14 (B) The risks and benefits of the test.

15 (C) A description of the methods of HIV transmission.

16 (D) A discussion of risk reduction behavior modifications,
 17 including methods to reduce the risk of perinatal HIV
 18 transmission and HIV transmission through breast milk.

19 (E) Referral information to other HIV prevention, health care,
 20 and psychosocial services.

21 (c) The confidentiality provisions of IC 16-41-2-3 apply to this
 22 section.

23 (d) The results of the confidential test ordered under subsection (a)
 24 must be released to the mother of the newborn infant.

25 **(e) If a test ordered under subsection (a) is positive, the**
 26 **physician who ordered the test shall inform the mother of the**
 27 **newborn infant of all treatment options available to the newborn**
 28 **infant.**

29 ~~(e)~~ (f) If ~~the~~ a parent of the newborn infant objects in writing for
 30 reasons pertaining to religious beliefs, the newborn infant is exempt
 31 from the test under subsection (a).

32 ~~(f)~~ (g) The state department shall adopt rules under IC 4-22-2 to
 33 carry out this section.

34 SECTION 7. IC 16-41-6-5 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 1999]: **Sec. 5. (a) A physician who diagnoses a pregnancy of a**
 37 **woman shall take or cause to be taken a sample of the pregnant**
 38 **woman's blood at the time of diagnosis of pregnancy and shall**
 39 **submit the sample to an approved laboratory for standard**
 40 **serological tests for syphilis, HIV, and hepatitis B.**

41 **(b) In addition to the tests required under subsection (a), the**
 42 **physician shall order a standard serological test for syphilis during**



the third trimester of pregnancy if the woman belongs to a high risk population for which the Centers for Disease Control and Prevention "Sexually Transmitted Diseases Treatment Guidelines" recommend a third trimester syphilis testing.

(c) A physician who orders the tests under subsection (a) shall do the following:

(1) Explain to the pregnant woman that syphilis, HIV, and hepatitis B may be transmitted from an infected pregnant woman to her unborn child and that these infections may be prevented if the woman's infection is recognized and treated.

(2) Provide counseling and instruction for HIV in a manner prescribed by the state department based on contemporary federal and state standards. The counseling and information must include the following:

(A) A description of the methods of HIV transmission.

(B) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal transmission.

(C) Referral information to other HIV prevention and psychosocial services, if appropriate.

(d) If a test ordered under subsection (a) or (b) is positive, the physician who ordered the test shall inform the pregnant woman of all treatment options available to her.

SECTION 8. IC 16-41-6-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) A person other than a physician who is permitted by law to attend a pregnant woman, but who is not permitted by law to take blood specimens, shall cause a sample of the blood of the pregnant woman to be taken by or under the direction of a licensed physician, who shall submit the sample to an approved laboratory for standard serological tests for syphilis, HIV, and hepatitis B.

(b) The person who attends the pregnant woman under subsection (a) shall do the following:

(1) Explain to the pregnant woman that syphilis, HIV, and hepatitis B may be transmitted from an infected pregnant woman to her unborn child and that these infections may be prevented if the woman's infection is recognized and treated.

(2) Provide counseling and instruction for HIV in a manner prescribed by the state department based on contemporary federal and state standards. The counseling and information must include the following:



(A) A description of the methods of HIV transmission.

(B) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal transmission.

(C) Referral information to other HIV prevention and psychosocial services, if appropriate.

(c) If a test ordered under subsection (a) is positive, the person who attends the pregnant woman shall inform the pregnant woman of all treatment options available to her.

SECTION 9. IC 16-41-6-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) If, at the time of delivery, there is no written evidence that standard serological tests for syphilis, HIV, and hepatitis B have been made in accordance with section 5 or 6 of this chapter, the person in attendance at the delivery shall take or cause to be taken a sample of the blood of the woman at the time of the delivery and shall submit the sample to an approved laboratory for standard serological tests for syphilis, HIV, and hepatitis B.

(b) The person in attendance at the delivery shall explain to the woman that the purpose of the tests are to protect against transmission of the diseases to her child.

(c) If a test ordered under subsection (a) is positive, the person in attendance at the delivery shall inform the woman of all treatment options available to her.

SECTION 10. IC 16-41-6-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The state department shall require, on each birth certificate and stillbirth certificate, in addition to the information otherwise required to be included on the certificate, the following information:

(1) Whether serological tests for syphilis, HIV, and hepatitis B were made for the woman who bore the child.

(2) If serological tests for syphilis, HIV, and hepatitis B were made, the date the blood specimen was taken.

(3) If serological tests for syphilis, HIV, and hepatitis B were made, whether the tests were made during pregnancy or at the time of delivery.

(4) If serological tests for syphilis, HIV, and hepatitis B were not made, the reason why the tests were not made.

(b) A person who prepares a birth certificate or a stillbirth certificate shall include the information required in subsection (a).

SECTION 11. IC 16-41-6-9 IS ADDED TO THE INDIANA CODE



AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9. (a) The state department shall:**

(1) prepare written materials that explain the treatment options available to an individual who has a positive test for syphilis, HIV, or hepatitis B; and

(2) distribute the materials to physicians and other persons who are allowed by law to attend a pregnant woman.

(b) The state department shall update and distribute the materials described in subsection (a) at least one (1) time every two (2) years.

SECTION 12. IC 16-41-6-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 10. (a) Notwithstanding any other law, all records, reports, data, and other information collected or maintained under this chapter that identifies or may be used to identify an individual patient, provider, or institution are confidential and may not be:**

(1) disclosed under IC 5-14-3;

(2) disclosed under any freedom of information:

(A) legislation;

(B) rules; or

(C) practice; or

(3) subject to discovery under the Indiana Rules of Civil Procedure.

(b) This section does not affect reporting requirements under this article or a rule adopted under this article.

SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 16-18-2-290.5; IC 16-41-6-2.5; IC 16-41-15-1; IC 16-41-15-2; IC 16-41-15-10; IC 16-41-15-11; IC 16-41-15-12; IC 16-41-15-13.

C
o
p
y

